

Message

From: Scott, Jeff [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AFAC6D298397450094BD69BCE7B3746F-JSCOTT]
Sent: 10/27/2020 6:11:29 PM
To: Torres, Tomas [Torres.Tomas@epa.gov]
Subject: RE: Stunning Executive Order

Thanks. I'd read a little piece on it, but this article was better. Hopefully, this will go away!

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From: Torres, Tomas <Torres.Tomas@epa.gov>
Sent: Tuesday, October 27, 2020 9:51 AM
To: Scott, Jeff <Scott.Jeff@epa.gov>; Adams, Elizabeth <Adams.Elizabeth@epa.gov>; Manzanilla, Enrique <Manzanilla.Enrique@epa.gov>; Miller, Amy <Miller.Amy@epa.gov>; Drake, Kerry <Drake.Kerry@epa.gov>; Quast, Sylvia <Quast.Sylvia@epa.gov>
Subject: Stunning Executive Order

Not sure if you've seen this. New EO appears to target GS-13s and above who work on policy and regulatory development matters. The order is in the link below.



EVAN VUCCI / AP

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'Stunning' Executive Order Would Politicize Civil Service

President Trump signs directive that would potentially pull thousands of federal employees in "policy-making" positions out of the competitive service, making them at-will employees.

OCTOBER 22, 2020 12:56 PM ET



ERICH WAGNER

President Trump on Wednesday signed an executive order creating a new classification of “policy-making” federal employees that could strip swaths of the federal workforce of civil service protections just before the next president is sworn into office.

The order would create a new Schedule F within the excepted service of the federal government, to be composed of “employees in confidential, policy-determining, policy-making, or policy-advocating positions,” and instructs agency heads to determine which current employees fit this definition and move them—whether they are members of the competitive service or other schedules within the excepted service—into this new classification. Federal regulations stating that employees hired into the competitive service retain that status even if their position is moved to the excepted service will not apply to Schedule F transfers.

Positions in the new Schedule F would effectively constitute at-will employment, without any of the protections against adverse personnel actions that most federal workers currently enjoy, although individual agencies are tasked with establishing “rules to prohibit the same personnel practices prohibited” by Title 5 of the U.S. Code. The order also instructs the Federal Labor Relations Authority to examine whether Schedule F employees should be removed from their bargaining units, a move that would bar them from being represented by federal employee unions.

“Except as required by statute, the civil service rules and regulations shall not apply to removals from positions listed in Schedules A, C, D, E, or F, or from positions excepted from the competitive service by statute,” the order states.

The order sets a swift timetable for implementation: Agencies have 90 days to conduct a “preliminary” review of their workforces to determine who should be moved into the new employee classification—a deadline that coincides with Jan. 19, the day before the next presidential inauguration.

The White House argued that the executive order is a necessary reform to ensure that federal officials can more efficiently remove “poor performers.”

“Effective performance management of employees in confidential, policy-determining, policy-making or policy-advocating positions is of the utmost importance,” the order states. “Unfortunately, the government’s current performance management is inadequate, as recognized by federal workers themselves. For instance, the 2016 Merit Principles Survey reveals that less than a quarter of federal employees believe their agency addresses poor performers effectively.”

But federal employee groups and government observers described the executive order as a “stunning” attempt to politicize the civil service and undermine more than a century of laws aimed at preventing corruption and cronyism in the federal government.

“The [1883] Pendleton Act is clearly in the sights of this executive order,” said Donald Kettl, the Sid Richardson professor at the University of Texas at Austin’s Lyndon B. Johnson School of Public Affairs. “It wants to undo what the Pendleton Act and subsequent civil service laws tried to accomplish, which was to create a career civil service with expertise that is both accountable to elected officials but also a repository of expertise in government. The argument here is that anyone involved in policymaking can be swept into this new classification, and once they’re in they’re subject to political review and dismissal for any reason.”

American Federation of Government Employees National President Everett Kelley said in a statement on Thursday that the executive order is “the most profound undermining of the civil service system in our lifetimes.”

“This executive order strips due process rights and protections from perhaps hundreds of thousands of federal employees and will enable political appointees and other officials to hire and fire these workers at will,” Kelley said. “Through this order, President Trump has declared war on the professional civil service by giving himself the authority to fill the government with his political cronies who will pledge their unwavering loyalty to him—not to America.”

Kettl said that the order could be far reaching in scope. Not only would high profile employees who publicly disagree with a president be targeted for removal, but lower level employees tasked with collecting the data and evidence underlying much of what the federal government does could be affected.

“If you think about examples of how this could play out, Dr. [Anthony] Fauci could be fired, as well as individuals at the [Centers for Disease Control and Prevention] who are producing analysis about the spread of the coronavirus, social distancing and the importance of masks,” Kettl said. “You could have people within the State Department raising questions about the administration’s expansion of efforts to engage in crackdowns and change other policies who could be fired. The people counting the number of immigrant children who cannot be reunited with their parents could be fired. There’s no end to it because the biggest risk is that anyone who says anything that would be in opposition to the administration’s policy could be viewed as in a policy-making position, put in Schedule F and fired.”

Rep. Gerry Connolly, D-Va., who serves as chairman of the House Oversight and Reform Committee's subcommittee on government operations, blasted the administration's efforts to remove workers' civil service protections.

“This executive order is yet another attack on federal employees that addresses absolutely none of the issues that can hinder effective federal recruitment and hiring,” Connolly said. “It’s a cheap ploy to let the Trump administration replace talent and acumen with fealty and self-dealing.”